



HIPAA Privacy & Payment

HP-IP-13

January 2004

HIPAA Privacy Compliance



TMA Privacy
Office

5111
Leesburg Pike
Suite 810
Falls Church
VA 22041

General Requirement

The Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule and DoD Health Information Privacy Regulation permit covered entities to use or disclose protected health information (PHI) for payment purposes.¹ “Payment” encompasses the various activities of health care providers to obtain payment or be reimbursed for their services and for a health plan to obtain premiums, to fulfill their coverage responsibilities and provide benefits under the plan, and to obtain or provide reimbursement for the provision of health care. Common examples of payment activities include, but are not limited to:

- Determining eligibility or coverage under a plan and adjudicating claims (e.g. checking DEERS for a patient’s TRICARE membership information)
- Risk adjustments (the process of adjusting payments based upon factors specific to individuals, rather than care provided, to make financial transactions more equitable)
- Billing and collection activities
- Utilization review activities, such as reviewing health care services for medical necessity, coverage, justification of charges, and the like and
- Disclosures to consumer reporting agencies (limited to specified identifying information about the individual, his or her payment history, account number, and identifying information about the covered entity)

Payment and Patient’s Authorization to Use or Disclose PHI

Payment falls under the Treatment, Payment, and Healthcare Operations (TPO) element of the HIPAA Privacy Rule. Authorizations from patients are not required for the Military Health System (MHS) to perform payment functions. The use and disclosure of PHI for payment purposes by the MHS shall be limited to the minimum necessary. The patient always maintains the right to request restrictions on uses and disclosures of health information for TPO purposes; however, the MHS does not have to grant such requests but is bound by any restriction to which it agrees.



HIPAA Privacy & Payment

HP-IP-13

January 2004

HIPAA Privacy Compliance



TMA Privacy
Office

5111
Leesburg Pike
Suite 810
Falls Church
VA 22041

Use of Debt Collection Agencies Under the Fair Debt Collection Practices Act

The HIPAA Privacy Rule permits the MHS to continue to use the services of debt collection agencies. Debt collection is recognized as a payment activity within the “payment” definition. Through a business associate arrangement, the MHS may engage a debt collection agency to perform this function on its behalf. Disclosures to collection agencies under a business associate agreement are governed by other provisions of the rule, including the minimum necessary requirement.

We are not aware of any conflict between the Privacy Rule and the Fair Debt Collection Practices Act. When a use or disclosure of PHI is necessary for the MHS to fulfill a legal duty, the Privacy Rule would permit such use or disclosure as required by law.

Debt Collection Assistance Officers (DCAOs) are MHS entities whose purpose is to help beneficiaries understand and get assistance with debt collection problems. DCAOs cannot provide legal advice, but they can help beneficiaries through the debt collection process by providing them with documentation for their use with the collection or credit reporting agency in explaining the circumstances relating to the debt. DCAOs are **not** collection agencies and accordingly are not considered covered entities or business associates under the Privacy Rule. However, DCAO activities are exempt from HIPAA-related authorization only when they are relevant to TRICARE-related collections. If a DCAO is acting to assist a beneficiary with non-TRICARE-related collection matters, a written authorization is required. Other healthcare organizations may not accept the TRICARE authorization form and may require patients to sign their own form. Although it may be duplicative, this is within the rights of that organization.

(Footnotes)

1 C4.1, DoD 6025.18-R: DoD Health Information Privacy Regulation, Jan. 24, 2003

